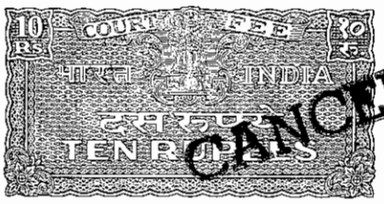

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION No. _____ OF 2003

PETITIONERS : 1. Laxmirani Das
Wife of Nimaicharana Das,
Aged 48 years,
R/o. Darogapara, Chopdagali,
Raigarh (C.G.)

2. Chunilal Das
S/o. Purnachandra Das,
Aged about 39 years,
R/o. Darogapara, Chopdagali
Raigarh (C.G.)

P. R. No. 2533/03
Presented by Shri R.GOPNGNG
dated 23.09.03

VERSUS

RESPONDENTS : 1. State Bank of India,
Through Branch Manager,
Main Branch, Gandhi Ganj
Raigarh (C.G.)

2. M/s. Gupta Brothers
Through Proprietor Baldeo Prasad Gupta,
Son of Baijnath Gupta,
R/o. near Old Hatri,
Raigarh (C.G.)

3. Baldeo Prasad Gupta
Son of Baijnath Gupta,
R/o. Baniyapara,
Raigarh (C.G.)

CERTIFIED COPY
23/9/03
CLERK TO AG. BILASPUR

21918

WRIT PETITION UNDER ARTICLE ~~226~~/227 OF THE CONSTITUTION OF INDIA

FR-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.3080/ सन् 2003

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	12.11.2003 Ms. Sunita Jain, counsel for the petitioners. The petitioners have preferred this petition under Article 227 of Constitution of India being aggrieved by the order dated 23.08.2003 passed by 2nd Additional District Judge, Raigarh by which the learned Additional District Judge has rejected the application of the petitioner no.1 filed under Order 26 Rule 1 of Code of Civil Procedure for permitting the petitioner no.1 to give her statement on commission on the ground that she being a Parda-Nasheen lady may be exempted from appearing before the Court to give her statement and moreover, she is suffering from high blood pressure, therefore, she is unable to appear before the Court and give her statement. Perusal of the said order appears that some suit was filed by respondent no.1-State Bank of India against respondent no.2 & 3 and also the petitioners for recovery of a loan which was advanced to respondent no.2 & 3 and the petitioners stood guarantors in that loan on behalf of respondent no.2 & 3. That suit was decreed ex-parte and an application was moved on behalf of the petitioners for setting aside the ex-parte decree on the ground that summons were not served on the petitioners and based on the forged signatures of the petitioners the Vakalatnama and return statement was filed and in support of that application the petitioner was required to give her statement. When the turn of the petitioner no.1 came for giving her statement the aforesaid application under Order 26 Rule 1 was filed for getting the	

[पीछे देखें

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक 3080/03 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

petitioner no.1 examined by the Commissioner at her residence and exempting the petitioner no.1 from appearing before the Court to give her statement.

I have heard learned counsel for the petitioners and perused the impugned order by which the Trial Court has rejected the application of the petitioner no.1 on the ground that in support of the application only the affidavit of the petitioner was filed and no other affidavit of any person has been filed in order to substantiate the statement of the petitioner that she is a parda-nasheen lady.

As after the amendment of Code of Civil Procedure a revision under Section 115 is barred and no revision lies against this order the petitioner has moved this petition under Article 227 of Constitution of India. As per law laid down by the Apex Court in the case of Surya Devi Rai V. Ram Chander Rai & others reported in JT 2003 (6) SC 465 this Court under Article 227 of Constitution of India can interfere only when the subordinate court has assumed a jurisdiction which it does not have or has failed to exercise a jurisdiction which it has or the jurisdiction though available is being exercised in a manner not permitted by law and failure of justice or grave injustice has resulted, the High Court may step into exercise its supervisory jurisdiction.

Perusal of the impugned order shows that the learned Additional District Judge has passed the order with reasons and it cannot be said that the learned Additional District Judge has exercised the jurisdiction which is not available to the trial Court

[पीछे देखि

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक 3080/03 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	or on account of passing this order some failure of justice or grave injustice has occasioned, therefore, I do not find any force in the arguments of learned counsel for petitioners to interfere with the order of the trial Court. Therefore, the writ petition is liable to be dismissed and it is hereby dismissed. Consequently, M.W.P.No.2813/2003 and I.A. No.9118/2003 also stands disposed of. Sd/- L.C. Bhadoo Judge	